

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA PROHIBITING THE USE OF THE PUBLIC RIGHT OF WAY OF MAJOR ARTERIAL STREETS FOR THE PURPOSE OF SELLING GOODS AND/OR SOLICITING DONATIONS.

*Passed by
Common Council
July 9, 1991
to override
the Mayor's
Veto*

WHEREAS, the selling of goods to, and/or the solicitation of donations from, the drivers or occupants of motor vehicles from any portion of the public right of way of major arterial streets creates a potentially hazardous situation for both those persons selling, or distributing without charge, any goods, materials or services, and those drivers and occupants of motor vehicles; and

WHEREAS, the Common Council of the City of Fort Wayne has an interest in protecting the safety of those persons on or near the public right of way; and

WHEREAS, Chapter 25 of the Municipal Code of the City of Fort Wayne, Indiana, entitled "Streets, Sidewalks and Public Places," is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. Chapter 25 of the Municipal Code of the City of Fort Wayne, Indiana, entitled "Streets, Sidewalks and Public Places," is hereby amended by the adding the following language:

Sec 25-1.1. USE OF THE PUBLIC RIGHT OF WAY FOR THE SALE OF GOODS AND/OR SOLICITING DONATIONS.

- a). No street, sidewalk, space between the sidewalk and curbing (commonly known as "parkstrip"), curbing, or the commonly travelled portion of any street in the City of Fort Wayne, including any median (the portion of a divided highway separating the travelled ways for traffic in opposite directions), shall be utilized by any person for the purpose of sale or distribution without charge of any goods or materials, and/or the solicitation of donations for charitable purposes from the drivers or occupants of any motor vehicle.
- b). For the purposes of this ordinance "sale or distribution" shall mean the physical exchange of goods or materials with or without remuneration.
- c). Nothing in this ordinance shall prohibit the sale or distribution without charge to, and/or the solicitation of donations for charitable purposes from persons other than the drivers or occupants of motor vehicles, which persons are not on the travelled portion of any street or median in the City of Fort Wayne, Indiana.
- d). The prohibitions of this section shall only apply to major arterial streets as that classification is utilized in the office of Traffic Engineering of the City of Fort Wayne.

SECTION 2. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE AND ANY AND ALL NECESSARY APPROVAL BY THE MAYOR.

Thomas C. Henry
Councilmember

~~VETOED~~

~~JULY 3, 1991~~

~~4:30 PM~~

~~(See attached sheet)~~

~~P. 11666~~

GENERAL ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA PROHIBITING THE USE OF THE PUBLIC RIGHT OF WAY FOR THE PURPOSE OF SELLING GOODS AND/OR SOLICITING DONATIONS.

WHEREAS, the selling of goods to, and/or the solicitation of donations from, the drivers or occupants of motor vehicles from any portion of the public right of way creates a potentially hazardous situation for both those persons selling, or distributing without charge, any goods, materials or services, and those drivers and occupants of motor vehicles; and

WHEREAS, the Common Council of the City of Fort Wayne has an interest in protecting the safety of those persons on or near the public right of way; and

WHEREAS, Chapter 25 of the Municipal Code of the City of Fort Wayne, Indiana, entitled "Streets, Sidewalks and Public Places," is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. Chapter 25 of the Municipal Code of the City of Fort Wayne, Indiana, entitled "Streets, Sidewalks and Public Places," is hereby amended by the adding the following language:

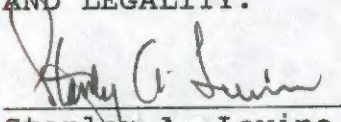
Sec 25-1.1. USE OF THE PUBLIC RIGHT OF WAY FOR THE SALE OF GOODS AND/OR SOLICITING DONATIONS.

- a). No street, sidewalk, space between the sidewalk and curbing (commonly known as "parkstrip"), curbing, or the commonly travelled portion of any street in the City of Fort Wayne, including any median (the portion of a divided highway separating the travelled ways for traffic in opposite directions), shall be utilized by any person for the purpose of sale or distribution without charge of any goods or materials, and/or the solicitation of donations for charitable purposes from the drivers or occupants of any motor vehicle.
- b). For the purposes of this ordinance "sale or distribution" shall mean the physical exchange of goods or materials with or without remuneration.
- c). Nothing in this ordinance shall prohibit the sale or distribution without charge to, and/or the solicitation of donations for charitable purposes from persons other than the drivers or occupants of motor vehicles, which persons are not on the travelled portion of any street or median in the City of Fort Wayne, Indiana.

SECTION 2. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE AND ANY AND ALL NECESSARY APPROVAL BY THE MAYOR.


COUNCILMEMBER

APPROVED AS TO FORM
AND LEGALITY.


Stanley A. Levine
Legal Advisor to
Fort Wayne Common Council

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2
3 BILL NO. G-91-04-01

4 GENERAL ORDINANCE NO. _____

5 AN ORDINANCE OF THE COMMON COUNCIL OF
6 THE CITY OF FORT WAYNE, INDIANA
7 PROHIBITING THE USE OF THE PUBLIC RIGHT
8 OF WAY FOR THE PURPOSE OF SELLING GOODS
9 AND/OR SOLICITING DONATIONS.

10 WHEREAS, the selling of goods to and/or the
11 solicitation of donations from the drivers or occupants of
12 motor vehicles from any portion of the public right of way
13 creates a potentially hazardous situation for both those
14 persons selling goods and/or soliciting donations, and those
15 drivers and occupants of motor vehicles; and

16 WHEREAS, the Common Council of the City of Fort Wayne
17 has an interest in protecting the safety of those persons on
18 or near the public right of way; and

19 WHEREAS, Chapter 25 of the Municipal Code of the City
20 of Fort Wayne, Indiana, entitled "Streets, Sidewalks and
21 Public Places," is in need of revision.

22 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
23 THE CITY OF FORT WAYNE, INDIANA THAT:

24 SECTION 1. Chapter 25 of the Municipal Code of the
25 City of Fort Wayne, Indiana, entitled "Streets, Sidewalks
26 and Public Places," is hereby amended by the adding the
27 following language:

28 Sec 25-1.1. USE OF THE PUBLIC RIGHT OF WAY FOR THE SALE OF
29 GOODS AND/OR SOLICITING DONATIONS.

30 No street, sidewalk, space between the sidewalk and curbing
31 (commonly known as "parkstrip"), curbing, or the commonly
32 travelled portion of any street in the City of Fort Wayne,
including any median (the portion of a divided highway
separating the travelled ways for traffic in opposite
directions), shall be utilized by any person for the purpose
of selling any materials to, and/or soliciting donations
from the drivers or occupants of any motor vehicles.

33 SECTION 2. THIS ORDINANCE SHALL BE IN FULL FORCE AND
34 EFFECT FROM AND AFTER ITS PASSAGE AND ANY AND ALL NECESSARY
35 APPROVAL BY THE MAYOR.

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APPROVED AS TO FORM
AND LEGALITY.

Stanley A. Levine
Legal Advisor to
Fort Wayne Common Council

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Rudd, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote: To override the Mayor's Veto

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 7-9-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. D-20-51 on the 9th day of July, 1991

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

Read the first time in full and on motion by Henry, seconded by Bradbury, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 4-5-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry, seconded by Bradbury, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
TOTAL VOTES	<u>7</u>	<u>1</u>		<u>1</u>
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA				<u>✓</u>
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD		<u>✓</u>		
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 6-25-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. D-20-91 on the 25th day of June, 1991

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of June, 1991, at the hour of 1:45 o'clock P. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

VETOED July 3, 1991 4:30 PM
(see attached statement) P. Helmke



THE CITY OF FORT WAYNE



Paul Helmke
Mayor

*IC 36-4-6-14 (If Council
overrides Veto)
goes into effect
immediately*

MAYOR VETOES "STREET/SIDEWALK SALES" ORDINANCE

FOR IMMEDIATE RELEASE: WEDNESDAY, JULY 3, 1991

Mayor Paul Helmke today vetoed the "Street/Sidewalk Sales" Ordinance passed by Fort Wayne City Council on June 25, 1991, issuing the following statement:

While the "Street/Sidewalk Sales" Ordinance (General Ordinance No. G-20-91/Bill No. G-91-04-01) passed by the City Council on June 25, 1991 expresses a very real and legitimate concern with "protecting the safety of... persons on or near the public right-of-way," the overbreadth and vagueness in the document raise serious issues as to its constitutionality.

The law interpreting the First Amendment to the U.S. Constitution makes it clear that restrictions on the time, place, and manner of expression must be narrowly drawn. Existing State laws and City ordinances already deal with traffic flow and traffic safety.

An Equal Opportunity Employer
One Main Street, Fort Wayne, Indiana 46802

This new Ordinance goes beyond that by restricting expression, even possibly controlling passive solicitation of donations by individuals on the sidewalk.

In addition, the ordinance is vague. There is no current definition of "major arterial streets", thus making it unclear where these restrictions apply.

Because of these constitutional concerns, I hereby veto this "Street/Sidewalk Sales" Ordinance.

I encourage Council to meet with representatives of the newspaper industry, individuals whose income-producing abilities are affected, and others concerned about the dissemination of ideas in our society before resubmitting a substitute ordinance addressing the legitimate concerns of safety for our young people.

For more information, contact: Kaylene Pena at 427-1120.

Handwritten signature

As Amended
" " "

Hold till 6/25/91

BILL NO. G-91-04-01

Committee of the whole

REPORT OF THE COMMITTEE ON REGULATIONS

THOMAS C. HENRY, CHAIRMAN
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, BRADBURY

Committee of the whole
REGULATIONS

WE, YOUR COMMITTEE ON _____ TO WHOM WAS

REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ OF THE COMMON COUNCIL
OF THE CITY OF FORT WAYNE, INDIANA, PROHIBITING THE USE OF
THE PUBLIC RIGHT OF WAY FOR THE PURPOSE OF SELLING GOODS
AND/OR SOLICITING DONATIONS

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) ~~(RESOLUTION)~~

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<i>[Signature]</i>	<i>[Signature]</i>	_____	_____
<i>[Signature]</i>	_____	_____	_____
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<i>[Signature]</i>	_____	_____	_____
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_____	_____	_____	_____

DATED: *6-25-91*

Sandra E. Kennedy
City Clerk

GENERAL ORDINANCE NO. 5-20-91.

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA PROHIBITING THE USE OF THE PUBLIC RIGHT OF WAY FOR THE PURPOSE OF SELLING GOODS AND/OR SOLICITING DONATIONS.

WHEREAS, the selling of goods to, and/or the solicitation of donations from, the drivers or occupants of motor vehicles from any portion of the public right of way creates a potentially hazardous situation for both those persons selling, or distributing without charge, any goods, materials or services, and those drivers and occupants of motor vehicles; and

WHEREAS, the Common Council of the City of Fort Wayne has an interest in protecting the safety of those persons on or near the public right of way; and

WHEREAS, Chapter 25 of the Municipal Code of the City of Fort Wayne, Indiana, entitled "Streets, Sidewalks and Public Places," is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. Chapter 25 of the Municipal Code of the City of Fort Wayne, Indiana, entitled "Streets, Sidewalks and Public Places," is hereby amended by the adding the following language:

Sec 25-1.1. USE OF THE PUBLIC RIGHT OF WAY FOR THE SALE OF GOODS AND/OR SOLICITING DONATIONS.

- a). No street, sidewalk, space between the sidewalk and curbing (commonly known as "parkstrip"), curbing, or the commonly travelled portion of any street in the City of Fort Wayne, including any median (the portion of a divided highway separating the travelled ways for traffic in opposite directions), shall be utilized by any person for the purpose of sale or distribution without charge of any goods or materials, and/or the solicitation of donations for charitable purposes from the drivers or occupants of any motor vehicle.
- b). For the purposes of this ordinance "sale or distribution" shall mean the physical exchange of goods or materials with or without remuneration.
- c). Nothing in this ordinance shall prohibit the sale or distribution without charge to, and/or the solicitation of donations for charitable purposes from persons other than the drivers or occupants of motor vehicles, which persons are not on the travelled portion of any street or median in the City of Fort Wayne, Indiana.

d) The prohibitions in this section shall only apply to
SECTION 2. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE AND ANY AND ALL NECESSARY APPROVAL BY THE MAYOR.

APPROVED AS TO FORM AND LEGALITY.

Stanley A. Levine
Legal Advisor to
Fort Wayne Common Council

COUNCILMEMBER

utilized in the office of traffic engineering of the City of Fort Wayne.

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